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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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presentations and should take steps to ensure that ex parte filings are placed on the record more promptly.

A. Ameritech Generally Supports the Proposals in the Notice

In the Notice, the Commission observes that the current ex parte rules are unnecessarily complex and detailed and that the public interest would be served by simplifying these rules. Ameritech agrees that all those that participate in Commission proceedings -- including regulated and unregulated entities, consumer groups, individual citizens, and others -- will benefit from simpler, clearer ex parte rules.

We also endorse the Commission's proposal to treat as restricted only those proceedings in which ex parte communications are prohibited under the Administrative Procedure Act. As the Commission recognizes, ex parte communications play an important role in developing a sound basis for administrative decisionmaking. Not only do such communications give parties an opportunity to ensure that their positions are properly understood by the Commission, such contacts also enable the Commission to obtain additional information about such issues as technical feasibility, cost, and other matters, to obtain a better, more complete record for decisionmaking. In addition, by proposing to treat formal complaint proceedings the same way as rulemaking proceedings, the Commission would eliminate the confusion that may now exist when issues raised in a formal complaint proceeding are also relevant to a pending rulemaking. In those instances, the restrictive status of the formal complaint proceeding can have an unnecessary chilling effect on potentially useful informal contacts in the rulemaking.

Therefore, the Commission should adopt its proposal to prohibit ex parte contacts only to the extent required by law. The more restrictive approach embodied in current rules denies parties to a proceeding the opportunity to clarify their positions and denies the Commission the benefits of additional clarification and information which can provide a sounder basis for decisionmaking.

B. The Commission Should Not Alter the Ex Parte Rules for Tariff Proceedings

In the Notice, the Commission proposes to alter the ex parte rules that currently apply to tariff proceedings. Currently, tariff proceedings are treated as exempt, unless and until the Commission initiates an investigation of the tariff filing in question.¹ A tariff proceeding that has been set for investigation is treated as non-restricted.² Although the Commission offers no evidence of improper influence or unfairness in tariff proceedings, the Commission now proposes to change the rules and subject tariff proceedings to "permit-but-disclose" rules after opposition is filed to a tariff.

This proposal to formalize interaction in the tariff review process at a time when the Commission is generally moving to streamline processes should be rejected. An important element of the tariff review process is the informal resolution of technical and other minor issues which frequently arise in the Commission's review of tariff filings. The informal resolution of such matters enables the Commission to avoid unnecessary suspensions and investigations of tariffs, which interfere with the ability of carriers to respond quickly to the demands of increasingly competitive marketplaces, and which

¹ See 47 CFR 1.1204(a)(6).

² See 47 CFR 1.1206(a)(6).

tax already limited Commission resources. The ability of the Commission to resolve such matters informally should not be compromised by the imposition of formal "permit but disclose" procedures prior to the initiation of a formal investigation.

As competition increases in telecommunications services, the Commission should be reducing regulatory burdens, not adding to them. To make informal resolution of tariff matters more difficult, as the Commission proposes, would be inconsistent with this objective. It would effectively hinder carriers' ability to respond quickly to marketplace demands, and delay the availability to consumers of new offerings and market-driven price reductions. For these reasons, the Commission should reject its proposed change in the ex parte rules for tariff review proceedings.

C. Informal Complaint Proceedings Should Continue to Be Exempt from the Ex Parte Rules

Under current rules, informal complaint proceedings are exempt from ex parte restrictions.³ In the Notice, the Commission proposes to modify this rule by distinguishing between informal complaints that are served directly by the complainant on a carrier and those that are not. Under the Commission's proposal, the former would be subject to "permit-but-disclose" rules, while the latter would be treated as exempt.

The Commission should reject this proposed change in its ex parte rules. The very purpose of the informal complaint process is to enable complainants to obtain redress of grievances without having to follow the

³ See 47 CFR 1.1204(a)(5).

procedures associated with formal adjudications. To impose ex parte requirements on some of these proceedings would only complicate matters for complainants and make it more difficult for them to avail themselves of informal complaint remedies. It would also interfere with the give-and-take that is critical to informal dispute resolution.

Nor is there any principled reason for distinguishing situations in which a complainant sends a copy of its complaint to a carrier and those in which the Commission forwards the copy. Certainly, complainants are not likely to be aware that their complaint will trigger one set of procedural rules if they happen to send a copy of it to their carrier, and another set if they do not. Rather, complainants who happen to send a copy of their informal complaint to their carrier will unwittingly find themselves unable to communicate with Commission staff without having to file a letter (or have Commission staff file a letter) documenting every communication. That is bound to be frustrating to complainants and Commission staff, and it is inconsistent with the purported streamlined nature of informal complaint procedures.

D. Notifications of Oral Presentations Should be Filed Within One Day of the Presentation and Should be Available Immediately to the Public.

In the Notice, the Commission proposes to relax the requirement that notifications of oral ex parte presentations be filed the same day as the oral presentation. The Commission proposes, instead, that such filings be required within three days of the presentation.

Ameritech agrees that allowing some additional time for preparing and filing notices of oral ex parte presentations might be necessary. Particularly, when an oral presentation is made towards the end of the business day, it can be difficult to comply with the requirement that notification be filed on the same day as the presentation.

We submit, however, that three days are not needed to prepare and submit a summary of an oral presentation. Rather, one day should be sufficient. Those making presentations can prepare the required filing in advance and, within one day after the presentation, make any necessary changes to the filing to reflect unanticipated topics of discussion. In addition, requiring that notices be filed no later than the day after the presentation would better ensure that all interested parties had timely notice of the presentation and its contents.

To really improve the ex parte process, the Commission must take steps to ensure that ex parte filings are more promptly available to the public. Ameritech is concerned that, even now, when ex parte notices must be filed on the day of an oral presentation, such notices sometimes take two weeks or longer to find their way into the public record. Ameritech suggests that the Commission require parties to file three, not two, copies of all ex parte presentations. The Commission should then immediately place the extra copy in a newly created public file of ex parte notifications. In this manner, instead of having to wait for a filing to find its way into the appropriate docket, those seeking copies of an ex parte notice would be able to obtain

immediate access to it.⁴ Parties filing ex parte notices should be obligated to inform the Secretary's office of the nature of the filing at the time it is made to ensure that a copy of the filing is placed promptly in the ex parte file. This simple procedure would ensure prompt public access to all ex parte notices without unduly burdening limited Commission resources.

E. Conclusion

Ameritech generally supports this initiative to simplify and clarify the Commission's ex parte rules. We oppose, however, the proposals to alter the ex parte rules for tariff proceedings. We also urge the Commission to retain existing rules for informal complaint proceedings, to require that ex parte notices be filed within one day of an oral presentation, and to take steps to ensure that notices are more promptly available to the public.

Respectfully submitted,



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⁴ These files could be maintained on a chronological basis. Each file would contain a copy of all ex parte notices filed at the Commission during a particular time period.